

SCHEDULE 1

Regulation 6(2)

POWERS OF AUTHORISED PERSONS

Powers of entry

1.—(1) An authorised person may enter any [^{F1}premises (except any premises used wholly or mainly as a private dwelling)] if he or she has reasonable grounds to believe that any plant protection product is being, or has been, applied to or [^{F1}stored on or in them or transported or applied by means of them] and that it is necessary to enter for the purpose of ensuring that these Regulations are being complied with.

^{F2}(2)

^{F3}(3)

[^{F4}(2)] An authorised person must exercise powers of entry at a reasonable hour unless it appears to the authorised person that there are grounds for suspecting that the exercise of power of entry may be frustrated if he or she seeks to exercise them at a reasonable hour.

[^{F5}(3)] An authorised person who enters any unoccupied [^{F6}premises] must leave it as effectively secured against unauthorised entry as it was before entry.

Textual Amendments

- F1** Words in Sch. 1 para. 1(1) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F2** Sch. 1 para. 1(2) omitted (18.7.2012) by virtue of [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F3** Sch. 1 para. 1(3) omitted (18.7.2012) by virtue of [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F4** Sch. 1 para. 1(2): Sch. 1 para. 1(4) renumbered as Sch. 1 para. 1(2) (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F5** Sch. 1 para. 1(3): Sch. 1 para. 1(5) renumbered as Sch. 1 para. 1(3) (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F6** Word in Sch. 1 para. 1(3) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**

Commencement Information

- I1** Sch. 1 para. 1 in operation at 4.10.2011, see [reg. 1\(1\)](#)

Search warrants

2.—[^{F7}(1) A lay magistrate may issue a warrant permitting an authorised person to enter any premises if necessary by reasonable force for the purposes of the enforcement of these Regulations if satisfied that the authorised person has reasonable grounds for requiring entry and any of the conditions set out in sub-paragraph 2(1A) are satisfied.]

[^{F8}(1A) The conditions referred to in paragraph 2(1) are that—

- (a) admission has been refused, or a refusal is expected, and (in either case) that notice to apply for a warrant has been given to the occupier;
- (b) asking for admission, or the giving of such a notice, would defeat the object of the entry;
- (c) the case is one of urgency; or

- (d) the premises are unoccupied or the occupier is temporarily absent.]
- (2) Where an authorised person applies for a warrant under paragraph 2(1) he or she must state—
- (a) the grounds upon which the application is made;
 - (b) that the warrant would be issued under this Schedule; and
 - (c) what is being sought.

[^{F9}(3) An application for a warrant under paragraph 2(1), where the condition satisfied is set out at paragraph 2(1A)(a), must be made on notice and on sworn complaint in writing and, where the condition satisfied is set out in paragraph 2(1A)(b), (c) or (d), must be made without notice on sworn complaint in writing.]

- (4) A warrant shall authorise entry on one occasion only.
- (5) A warrant shall specify—
- (a) the name of the person who applies for it;
 - (b) the date on which it is issued;
 - (c) that it is issued under this Schedule;
 - (d) [^{F10}the address of the premises to be entered and searched; and]

identify, so far as is practicable, what is to be sought.

- (6) Two copies shall be made of the warrant.
- (7) The copies shall be clearly certified as copies.

Textual Amendments

- F7** Sch. 1 para. 2(1) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F8** Sch. 1 para. 2(1A) inserted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F9** Sch. 1 para. 2(3) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F10** Words in Sch. 1 para. 2(5)(d) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**

Commencement Information

- I2** Sch. 1 para. 2 in operation at 4.10.2011, see [reg. 1\(1\)](#)

Execution of warrants

- 3.—(1) Entry and search under a warrant must be within three months from the date of its issue.
- (2) Where the occupier of the [^{F11}premises] to be entered and searched is present at the time when an authorised person seeks to execute a warrant to enter and search it, the authorised person shall—
- (a) identify himself or herself to the occupier and shall produce to the occupier evidence of his or her authority;
 - (b) produce the warrant to the occupier; and
 - (c) supply the occupier with a copy of it.
- (3) Where the occupier of the [^{F12}premises] is not present at the time when an authorised person seeks to execute such a warrant; but some other person who appears to the authorised person to be

in charge of the [F12]premises] is present, sub-paragraph (2) shall have effect as if any reference to the occupier were a reference to that other person.

(4) If there is no person present who appears to the authorised person to be in charge of the [F13]premises], the authorised person must leave a copy of the warrant in a prominent place on the [F13]premises].

(5) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(6) An authorised person executing a warrant shall make an endorsement on it stating whether what was sought was found.

(7) A warrant shall be returned to the clerk of the court for the area in which the lay magistrate was acting when the warrant was issued—

- (a) when it has been executed; or
- (b) in the case of a warrant which has not been executed, upon the expiry of three months from the date of its issue or sooner.

(8) A warrant which is returned under sub-paragraph (7) shall be retained for 12 months from its return by the clerk of the court for the area in which the lay magistrate was acting when the warrant was issued.

(9) If during the period for which a warrant is to be retained the occupier of the [F14]premises] to which it relates asks to inspect it, such inspection shall be allowed.

Textual Amendments

- F11** Word in Sch. 1 para. 3(2) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F12** Word in Sch. 1 para. 3(3) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F13** Word in Sch. 1 para. 3(4) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F14** Word in Sch. 1 para. 3(9) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**

Commencement Information

- I3** Sch. 1 para. 3 in operation at 4.10.2011, see [reg. 1\(1\)](#)

General powers

4.—[F15](1) An authorised person exercising powers of entry pursuant to paragraph 1(1), or in accordance with a warrant granted under paragraph 2(1), may—

- (a) search for any item, if necessary using reasonable force;
- (b) open or examine, or both, anything that is on, attached to or otherwise forms part of the premises, if necessary using reasonable force;
- (c) take with him or her any persons and equipment or materials he or she considers necessary for the enforcement of these Regulations;
- (d) open any container, if necessary using reasonable force;
- (e) carry out any searches, inspections, measurements and tests;
- (f) take samples;

- (g) have access to, and inspect and copy any documents, books or records (in whatever form they are held) which the authorised person has reason to believe may be relevant in connection with the enforcement of these Regulations and remove them to enable them to be copied;
- (h) photograph or copy anything which the authorised person has reasonable cause to believe may be relevant in connection with the enforcement of these Regulations; and
- (i) seize any computers and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable.]
- (2) Any person who accompanies an authorised person in accordance with [F16]paragraph 4(1)(c)] may perform any of the authorised person's functions but only under the supervision of that authorised person.
- (3) Where an authorised person takes samples under [F17]paragraph 4(1)(f)] he or she may only take an amount that is reasonably needed for the performance of his or her functions under these Regulations.
- (4) Nothing in [F18]paragraph 4(1)(g), (h) or (i)] shall be taken to compel the production by any person of a document which he or she would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court in Northern Ireland.
- (5) An authorised person may require any person to give him information as to the formulation, effects or use of any substance.
- (6) An authorised person performing functions under these Regulations may require a person whom he or she has reasonable cause to believe is able to give information which will assist him in the execution of these Regulations—
- (a) to answer such questions as the authorised person thinks it appropriate to ask; and
- (b) to sign a declaration of the truth of the answers provided.
- (7) Any person to whom questions are put under sub-paragraph (6) may nominate a person to be with him or her when he or she gives his or her answers.
- (8) When a person answers any such questions the only other persons who may be present, apart from the questioner, are—
- (a) the person (if any) nominated under sub-paragraph (7); and
- (b) any person authorised by the authorised person to be present.
- (9) No answer given by a person in pursuance of a requirement imposed under sub-paragraph (6) shall be admissible in evidence in Northern Ireland against that person, his or her spouse, or his or her civil partner in proceedings for any offence.

Textual Amendments

- F15** Sch. 1 para. 4(1) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F16** Words in Sch. 1 para. 4(2) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F17** Words in Sch. 1 para. 4(3) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F18** Words in Sch. 1 para. 4(4) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**

Commencement Information

- I4** Sch. 1 para. 4 in operation at 4.10.2011, see [reg. 1\(1\)](#)

Power of authorised person to use reasonable force

^{F19}5.

Textual Amendments

F19 Sch. 1 para. 5 omitted (18.7.2012) by virtue of [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**

Protection of authorised persons

6. An authorised person shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his or her functions as an authorised person if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Commencement Information

I5 Sch. 1 para. 6 in operation at 4.10.2011, see [reg. 1\(1\)](#)

Seizure and disposal of products and requirements to recover or export

7.—(1) If an authorised person is of the opinion that a person is committing, has committed or is likely to commit an offence contrary to these Regulations, the authorised person has the power to—

- (a) seize or dispose of the plant protection product or both, or serve a notice on the holder of any approval, authorisation or permission relating to the plant protection product, the owner of the plant protection product or any other person appearing to be in charge of it requiring him or her to dispose of it;
- (b) seize or dispose of anything treated with the plant protection product (“treated item”) or both, or serve a notice on any person appearing to the authorised person to be the owner or the person in charge of anything so treated requiring him or her to dispose of it; or
- (c) serve a notice on the holder of any approval, authorisation or permission relating to the plant protection product, the owner of the plant protection product or any other person appearing to the authorised person to be in charge of it requiring him or her to take such remedial action as appears to the authorised person to be necessary, including recovery of the plant protection product from the market in Northern Ireland.

(2) If an authorised person has exercised his or her power under sub-paragraph (1)(a) or (b) to seize or dispose, or both, he or she must serve a notice on the relevant person informing that person of the power that has been exercised.

(3) If any plant protection product has been imported into Northern Ireland in contravention of Article 28(1) an authorised person may, by notice served on the person appearing to be the owner, the importer or the person in charge of the product, require that it shall be exported from Northern Ireland.

(4) A notice served under this paragraph must be in writing.

(5) A notice served under sub-paragraph (1) or (3) must give a time limit for compliance with the notice.

(6) A notice served under sub-paragraph (1), (2) or (3) must—

- (a) state that the authorised person is of the opinion that a person is committing, has committed or is likely to commit an offence contrary to these Regulation and specify the offence;

- (b) specify why the authorised person is of that opinion;
 - (c) identify the plant protection product or treated item seized or disposed of, or both; and
 - (d) state the quantity of the plant protection product or treated item seized or disposed of, or both.
- (7) An authorised person may withdraw a notice served under this paragraph at any time.
- (8) An authorised person may serve a person with a notice under this paragraph even if a previous notice served on that notice has been withdrawn.
- (9) In sub-paragraph (2) “relevant person” means—
- (a) for the purposes of a notice under sub-paragraph (1)(a), the holder of any approval, authorisation or permission relating to the plant production product that has been seized, disposed of, or both, the owner of the plant protection product or any other person appearing to be in charge of it; and
 - (b) for the purposes of a notice under sub-paragraph (1)(b), any person appearing to the authorised person to be the owner of anything treated with the plant protection product seized, disposed of, or both, or the person appearing to the authorised person to be in charge of anything so treated.

Commencement Information

16 Sch. 1 para. 7 in operation at 4.10.2011, see [reg. 1\(1\)](#)

Enforcement Notices

- 8.—(1) If an authorised person is of the opinion that a person—
- (a) is committing an offence under [^{F20}regulation 22]; or
 - (b) has committed such an offence in circumstances that make it [^{F21}likely] that the offence will be repeated,
- he or she may serve on that person a notice in writing stating that he or she is of that opinion, specifying the offence as to which he or she is of that opinion and directing them to take either of the steps set out at sub-paragraph (2).
- (2) A notice under sub-paragraph (1) may direct—
- (a) that any [^{F22}premises] on or in which it appears that the offence was being committed or anything which is on or in it, shall be left undisturbed (whether generally or in particular respects) for as long as it appears to him to be reasonably necessary; or
 - (b) that remedial or preventative measures shall be taken.
- (3) If an authorised person is of the opinion that a person is committing, or is likely to commit, an offence under [^{F23}regulation 22], he or she may serve on that person a notice—
- (a) stating that opinion;
 - (b) specifying why he or she is of that opinion; and
 - (c) requiring that person to act in accordance with these Regulations or prohibiting that person from acting in contravention of these Regulations.
- (4) A notice served under sub-paragraph (1) or (3) must be in writing and must give a time limit for compliance with the notice.
- (5) An authorised person may withdraw a notice served under sub-paragraph (1) or (3) at any time.

(6) An authorised person may serve a person with a notice under sub-paragraph (1) or (3) even if a previous notice served on that person has been withdrawn.

Textual Amendments

- F20** Words in Sch. 1 para. 8(1)(a) substituted (29.2.2012) by [Plant Protection Products \(Amendment\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/12\)](#), regs. 1, **5**
- F21** Word in Sch. 1 para. 8(1)(b) substituted (29.2.2012) by [Plant Protection Products \(Amendment\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/12\)](#), regs. 1, **6**
- F22** Word in Sch. 1 para. 8(2)(a) substituted (18.7.2012) by [The Plant Protection Products \(Sustainable Use\) Regulations 2012 \(S.I. 2012/1657\)](#), regs. 1(1), 32(2), **Sch. 5**
- F23** Words in Sch. 1 para. 8(3) substituted (29.2.2012) by [Plant Protection Products \(Amendment\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/12\)](#), regs. 1, **5**
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Commencement Information

- I7** Sch. 1 para. 8 in operation at 4.10.2011, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Plant Protection Products Regulations (Northern Ireland) 2011, SCHEDULE 1.